

UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII

In re:

ALMA BARBASO
SCHWARTZ,

Debtor.

Case No. 10-02178
Chapter 13

Related Docket No.: 69

MEMORANDUM REGARDING DEBTOR'S MOTION TO RECONSIDER

On November 10, 2010, this Court heard Citizens Bank of Pennsylvania (hereinafter "Citizens")'s Motion for Relief from the Automatic and Co-debtor Stay (hereinafter the "Motion"). Findings of Fact and Conclusions of Law and the Order Granting the Motion (hereinafter the "Order") were docketed on November 17, 2010. See Dkt. Nos. 56-57. Debtor filed a Motion to Reconsider this Order on December 6, 2010. See Dkt. No. 69.

The abovementioned Motion relates to certain real property located at 836 Westminster Drive, Lancaster, Pennsylvania 17601, also identified as Tax ID 290-28744-0-0000 (hereinafter the "Property"). Debtor and co-borrower Stephen Schwartz, both individually and in his capacity as Trustee of the MGM Genesis Trust U/D/T (hereinafter "Co-borrower"), entered into a Citizens Bank Promissory Note and Disclosure Statement (hereinafter the "Note") with Citizens. See Dkt. No. 26, Exhibit A. The Note was accompanied by a mortgage executed in favor of

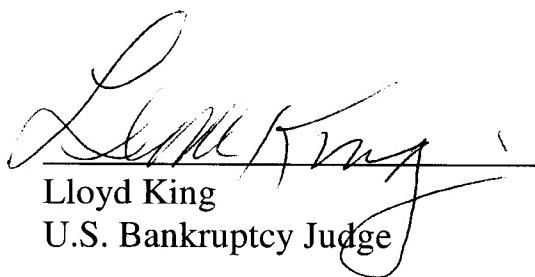
Citizens encumbering the Property and recorded in the Lancaster County, Recorder of Deeds Office as Document No. 5355446 (hereinafter the "Mortgage").

See Dkt. No. 26, Exhibit B. Upon review of these documents, it appears Debtor was a signatory to the original Note in favor of Citizens, but only Co-borrower, in his capacity as Trustee of the MGM Genesis Trust U/D/T, signed the Mortgage.

This, however, does not affect the result of the prior Order. Citizens is the undersigned for the Note and Mortgage and has provided sworn declarations that it is the current Note holder. No evidence has been provided to establish that the Note and Mortgage have been assigned to a third party. The information provided in the record is therefore adequate to grant Citizens' Motion. If the Debtor has additional proof regarding the invalidity of the Note and Mortgage, Debtor may raise those issues in connection with any Pennsylvania foreclosure.

Accordingly, Debtor's Motion to Reconsider must be denied. The court will enter a separate and final order.

Dated: Honolulu, Hawaii, DEC 08 2010.


Lloyd King
U.S. Bankruptcy Judge